

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

MANUEL HERANDEZ,	:	
Plaintiff,	:	
	:	
v.	:	CIVIL ACTION NO. 18-CV-3815
	:	
CORRECTIONS EMERGENCY	:	
RESPONSE TEAM (CERT), <i>et al.</i> ,	:	
Defendants.	:	

**ORDER**

AND NOW, this 26th day of September, 2018, upon consideration of Plaintiff Manuel Hernandez's Motion to Proceed *In Forma Pauperis*, (ECF No. 4), his Prisoner Trust Fund Account Statement (ECF No. 5), and his *pro se* Complaint (ECF No. 1), it is **ORDERED** that:

1. The Clerk of Court is **DIRECTED** to amend Plaintiff's name in the caption to reflect that it is spelled Manuel Hernandez. It appears Hernandez inadvertently misspelled his name in the caption of his Complaint.
2. Leave to proceed *in forma pauperis* is **GRANTED**.
3. Plaintiff Manuel Hernandez, #BW-4610, shall pay the full filing fee of \$350 in installments, pursuant to 28 U.S.C. § 1915(b). Based on the financial information provided by Hernandez, an initial partial filing fee of \$16.54 is assessed. The Superintendent or other appropriate official at the SCI-Phoenix or at any other prison at which Hernandez may be incarcerated is directed to deduct \$16.54 from Hernandez's inmate trust fund account, when such funds become available, and forward that amount to the Clerk of the United States District Court

for the Eastern District of Pennsylvania, 601 Market Street, Room 2609, Philadelphia, PA 19106, to be credited to Civil Action No. 18-3815. In each succeeding month when the amount in Hernandez's inmate trust fund account exceeds \$10.00, the Superintendent or other appropriate official shall forward payments to the Clerk of Court equaling 20% of the preceding month's income credited to Hernandez's inmate trust fund account until the fees are paid. Each payment shall reference the docket number for this case, Civil Action No. 18-3815.

4. The Clerk of Court is directed to send a copy of this Order to the Superintendent of SCI-Phoenix.

5. The Complaint is **DEEMED** filed.

6. The Complaint is **DISMISSED without prejudice** for failure to state a claim, pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii), for the reasons stated in the Court's Memorandum.

7. Hernandez is given leave to file an amended complaint within thirty (30) days of the date of this Order. If Hernandez files an amended complaint, he must identify all of the defendants in the caption of the amended complaint. The amended complaint must also provide as much identifying information for the defendants as possible. Hernandez may refer to a defendant by last name only if that is the only identifying information possessed. If Hernandez wishes to name individuals for whom he does not have any identifying information, he may refer to those individuals as John Doe #1, John Doe #2, etc. The amended complaint must also describe how each defendant was responsible for violating Hernandez's rights,

and should not rely on or refer back to the initial Complaint to state a claim. If Hernandez cannot state a claim in light of the law set forth in the Court's Memorandum, he should not include that claim in his amended complaint. Upon the filing of an amended complaint, the Clerk of Court shall not make service until so **ORDERED**.

8. The Clerk of Court is **DIRECTED** to send Hernandez a blank form complaint to be used by a prisoner filing a civil rights action. The Clerk of Court shall write the civil action number of this case on the form. Hernandez may use this form to file an amended complaint if he chooses to do so.

9. If Hernandez fails to file an amended complaint, his case may be dismissed without prejudice for failure to prosecute without further notice.

**BY THE COURT:**

/s/ Gerald J. Pappert  
**GERALD J. PAPPERT, J.**